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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of

Compatibility Between Cable Systems
and Consumer Electronics Equipment

PP Docket No. 00-67

To: The Commission

REPLY COMMENTS OF ECHOSTAR COMMUNICATIONS CORPORATION

EchoStar Communications Corporation ("EchoStar") hereby submits its reply comments in the above-captioned proceeding seeking comment on rules to resolve outstanding issues regarding the compatibility of cable television systems, digital television receivers, set-top boxes, and other equipment used by consumers to access digital cable programming.¹ In its comments, EchoStar emphasized the importance of ensuring that the Commission does not endorse a cable industry-negotiated agreement, or impose any other regulations, which have the effect of prejudicing the Direct Broadcast Satellite ("DBS") industry or otherwise placing satellite-delivered Multichannel Video Programming Distribution ("MVPD") services at a competitive disadvantage.² In this reply, EchoStar reiterates the importance of maintaining a

¹ *In the Matter of Compatibility Between Cable Systems and Consumer Electronics Equipment*, Notice of Proposed Rulemaking, PP Docket No. 00-67, FCC 00-137 (rel. Apr. 14, 2000) ("NPRM").

² Comments of EchoStar, at 3-4 (May 24, 2000).

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level playing field for all MVPD providers, as well as ensuring that consumers themselves are neither disadvantaged or confused by the labeling on electronic equipment.

The Commission's overarching goal must be to ensure that the MVPD marketplace remains competitive. As Circuit City points out in its comments, "[w]hile the interface and copyright issues identified specifically by the Commission in its NPRM are very important, the most crucial issue pending remains *competition*."³ As the Commission knows, DBS is the only true competitor to cable systems today, providing over 12 million U.S. subscribers with high-quality digital video and audio programming. Indeed, EchoStar's DISH Network is one of the Commission's glowing success stories, competing every day on both price and quality with the incumbent cable television systems in each and every local community throughout the country. It is therefore critical that the Commission not take any action, or endorse any cable industry agreement, which would put DBS at a competitive disadvantage in the transition from analog to digital television. Indeed, the Commission itself has recognized that, while its statutory mandate deals explicitly only with the compatibility between cable systems and consumers electronics equipment,⁴ it must not take any action which has the effect of impeding consumers access to competing video delivery system.⁵ Accordingly, the Commission must confirm, in this proceeding, that the industry agreements reached to date do

³ Comments of Circuit City Stores, Inc. ("Circuit City"), at 1 (May 24, 2000) (emphasis in original). *See also* Circuit City Comments at 15 ("The Commission should not assume that the cable industry can or will protect consumers in order to compete with DBS distribution.").

⁴ 47 U.S.C. §544(A).

⁵ *In the Matter of Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992 Compatibility Between Cable Systems and Consumer Electronics Equipment*, First Report and Order, 9 FCC Rcd. 1981 (1994).

not inhibit the connection of satellite equipment to digital television receivers or otherwise indicate to consumers that satellite equipment cannot also be connected to such equipment.⁶

It is particularly important that any labeling standards adopted or endorsed by the Commission do not favor one means of video distribution over another – or lead to consumer confusion and dissatisfaction. As Time Warner points out:

[t]he situation should never arise where a consumer purchases an expensive, high-end piece of consumer electronics equipment that was marketed as state-of-the-art or next-generation, only to find that the device lacks the necessary connectivity to receive advanced interactive and digital services available from cable operators *or other MVDPs*.⁷

This is precisely the situation that will arise if the Commission adopts the labeling scheme proposed by the National Cable Television Association (“NCTA”) and the Consumer Electronics Association (“CEA”).⁸ EchoStar recognizes that the proposed labels represent a compromise. However, the proposed labels “cable-connect” and “cable-interactive” are completely cable-centric, leaving tens of millions of existing and prospective U.S. consumers who already subscribe and will decide to subscribe to DBS service with absolutely no ability to discern whether the equipment so labeled is compatible with their DBS service. As EchoStar suggested

⁶ See also Comments of the Satellite Broadcasting and Communications Association (“SBCA”), at 1-2 (May 24, 2000) (“it is important that the Commission not deliberately foster an interface standard that ignores the capabilities of other, non-cable technologies such as direct-to-home satellite”).

⁷ Comments of Time Warner Cable (“Time Warner”), at 2 (May 24, 2000) (emphasis supplied).

⁸ See Letter from Robert Sachs, President and CEO, National Cable Television Association and Gary Shapiro, President and CEO, Consumer Electronics Association to William E. Kennard, Chairman, Federal Communications Commission (May 24, 2000).

in its comments, the Commission should consider alternative designations which are delivery system neutral to identify the functionality of new digital television receivers and other consumer equipment.⁹ This could be accomplished without disturbing the fundamental compromise reached by the NCTA/CEA simply by indicating in the proposed labels that the equipment is capable of receiving digital programming delivered via both cable and satellite. Such a neutral labeling scheme would be both pro-competitive and more consumer-friendly.

Accordingly, EchoStar urges that the Commission adopt regulations that are consistent with the foregoing reply comments.

Respectfully submitted,

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⁹

Comments of EchoStar at 3-4.

CERTIFICATE OF SERVICE

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